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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, March 28, 2017
85th Legislature, Number 40
The House convenes at 10 a.m.

The House will consider one bill on the major state calendar and three bills on the general state calendar. They are listed on the following page.

The following House committees were scheduled to hold public hearings at 8 a.m.: Environmental Regulation in Room E1.026; Insurance in Room E2.016; Public Education in Room E2.036; Public Health in Room E2.012; and Homeland Security and Public Safety in Room E2.014. The House Urban Affairs Committee is scheduled to hold a public hearing at 10:30 a.m. or on adjournment in Room E2.028, and the following committees are scheduled to hold public hearings at 2 p.m. or on adjournment: Investments and Financial Services in Room E2.010; Judiciary and Civil Jurisprudence in Room E2.026; Land and Resource Management in Room E1.014; and Culture, Recreation and Tourism in Room E1.010.

The following Senate committees were scheduled to hold public hearings: Business and Commerce in Room E1.016 at 8 a.m.; Natural Resources and Economic Development in Room E1.012 at 8 a.m.; and Criminal Justice in Room E1.016 at 1:30 p.m. or on adjournment.



Dwayne Bohac
Chairman
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SUBJECT: Continuing the Railroad Commission of Texas

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 12 ayes — Darby, C. Anderson, G. Bonnen, Canales, Clardy, Craddick,
Guerra, P. King, Lambert, Landgraf, Schubert, Walle

0 nays

1 absent — Isaac

WITNESSES: For — Ben Shepperd, Permian Basin Petroleum Association; Thomas Brocato, Steering Committee of Cities Served by Atmos; John Tintera, Texas Alliance of Energy Producers/Panhandle Producers; Ed Longanecker, Texas Independent Producers and Royalty Owners Association (TIPRO); Todd Staples, Texas Oil and Gas Association; James Mann, Texas Pipeline Association; Tricia Davis, Texas Royalty Council; (*Registered, but did not testify*: Matthew Thompson, Apache Corporation; Jason Ryan, CenterPoint Energy; Bill Kelly, City of Houston Mayor's Office; Stan Casey, Concho Resources; Robert Nathan, CPS Energy; Teddy Carter, Devon Energy; Kelly McBeth, GPA Midstream; Lindsay Sander, Markwest Energy; Julie Moore, Occidental Petroleum; Riley Stinnett, Texas Gas Service; Laura Buchanan, Texas Land and Mineral Owners Association; Thure Cannon, Texas Pipeline Association; Junior Aston; Gloria Leal)

Against — David Foster, Clean Water Action; Lon Burnam, Downwinders At Risk and Tarrant Coalition for Environmental Awareness; Mark Miller, Libertarian Party of Texas

On — Cyrus Reed, Lone Star Chapter Sierra Club; Rita Beving and Carol Birch, Public Citizen Texas; Wayne Christian, Christi Craddick, and Ryan Sitton, Railroad Commission of Texas; Andrew Dobbs, Texas Campaign for the Environment; (*Registered, but did not testify*: Wei Wang, Railroad Commission of Texas; Amy Trost and Ken Levine, Sunset Advisory Commission; Elizabeth Doyel, Texas League of Conservation Voters)

BACKGROUND: The Railroad Commission of Texas (RRC) regulates oil and gas drilling and production, well plugging and site remediation, pipeline safety and damage prevention, surface mining of coal and uranium, rates of gas utilities, and alternative fuels through permitting, monitoring, inspecting, and conducting hearings.

Governing structure. The RRC is led by three statewide elected commissioners who serve staggered six-year terms and elect their own chair.

Staffing. The RRC employs about 740 staff, 40 percent of whom operate out of 11 field offices, where they primarily perform inspections of oil, natural gas, and pipeline facilities and surface mining sites.

Funding. In fiscal 2015, the RRC spent about \$86.5 million, with 74 percent of expenditures used for permitting, inspecting, and remediating oil and natural gas operations. The agency's primary source of funding in fiscal 2015 was the Oil and Gas Regulation and Cleanup Fund, followed by the General Revenue Fund.

The Oil and Gas Regulation and Cleanup Fund Advisory Committee, governed by Natural Resources Code, sec. 91.1135, has 10 members and is required to meet quarterly with the RRC, review recommendations for legislation proposed by the RRC, monitor the effectiveness of the fund, and provide quarterly and biennial reports.

The RRC underwent Sunset review in 2011 and 2013, but Sunset legislation considered in those years by the 82nd and 83rd Legislatures was not enacted. The RRC would be discontinued on September 1, 2017, if not continued in statute.

DIGEST: CSHB 1818 would continue the Railroad Commission of Texas (RRC) until September 1, 2029.

The bill would require the RRC, with stakeholder input, to develop and publish an annual plan to use oil and gas monitoring and enforcement resources strategically to ensure public safety and protect the environment. The plan would include a report of information showing the

RRC's oil and gas monitoring and enforcement activities over time, including:

- data on the number, type, and severity of violations of statutes or rules related to oil and gas;
- the number of major violations for which a penalty was imposed or an enforcement action taken; and
- the number of repeat major violations.

Each annual plan would be published on the commission's website by September 1 of the year preceding the year the plan is implemented. The first plan would be published by September 1, 2018, for implementation in 2019.

The RRC could establish pipeline safety and regulatory fees to be assessed annually against permit or registration holders and individually against new, renewed, or amended permits or registrations. The fees would cover the cost of all pipeline safety and regulatory programs and would be deposited into the Oil and Gas Regulation and Cleanup Fund. The RRC would establish the method for calculating and assessing the fees, which could be based on any factor necessary to efficiently and fairly recover the program's costs.

The bill also would require the RRC to adopt safety standards related to interstate and intrastate pipeline facilities.

CSHB 1818 would dissolve the Oil and Gas Regulation and Cleanup Fund Advisory Committee. It would add standard Sunset provisions for alternative dispute resolution. To the extent of any conflict, the bill would prevail over other nonsubstantive additions and corrections to codes made by the 85th Legislature during its regular session.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 1818 would send a clear message to global energy partners that Texas oil and gas is well regulated and offers a superior product by continuing the Railroad Commission (RRC) for 12 years. This is the third time in seven years that the commission has undergone Sunset review,

which is expensive and time intensive, and this bill is void of issues that weighed it down in previous legislative sessions.

The annual strategic plan required in CSHB 1818 would be vital to ensuring that the agency better focuses its limited resources. Publishing the report on the website would increase transparency and public awareness of the commission's monitoring and enforcement efforts. Some have voiced a desire for a searchable database of this information, but creating such a database would be expensive.

CSHB 1818 would provide necessary authority to the RRC to permit and inspect more than 46,000 miles of interstate pipelines. While the federal government has safety oversight of these pipelines, it generally views damage prevention as an issue best handled by state agencies. Texas already has an effective pipeline safety program for intrastate pipelines, and extending it to interstate pipelines would allow for uniform enforcement throughout the state, with the potential to decrease pipeline-related damages. The commission cannot provide an accurate picture of how large a problem damage to interstate pipelines is without this authority.

Granting the commission authority to assess an upfront, annual permitting fee on pipeline operators would be crucial to generating sufficient revenue for pipeline safety and regulatory program costs. The RRC currently assesses a pipeline safety fee on all natural gas distribution and municipal operators on a per-service line basis, but the revenue it generates is expected to fall short of what is needed for the pipeline safety program by about \$1.8 million. For more than 100 years, the commission has required pipeline operators to obtain a permit without the authority to assess an upfront permitting fee. Most agencies require regulated entities to pay a permit fee to support regulatory functions. This fee would help the agency employ and retain sufficient staff and field inspectors, ensure pipelines were safely transporting hazardous liquids and gas across the state, and appropriately oversee this important, growing industry.

**OPPONENTS
SAY:**

CSHB 1818 should continue the RRC for six years instead of 12. An agency of this importance with such a large budget should be reviewed more often.

A Sunset bill without significant improvements to agency functions would defeat the purpose of Sunset review. This bill would not address many needed reforms, such as a name reflecting the agency's duties, updated bond requirements for well plugging, the transfer of natural gas utility rate cases to the Public Utility Commission, penalties and regulations to deter pollution, limits on political contributions, and other reforms.

There also is a need to create a searchable database with information on inspections, complaints, and enforcement actions in order to provide more transparency at the RRC.

OTHER
OPPONENTS
SAY:

The fiscal note does not adequately reflect the cost the commission would incur to comply with the alternative dispute resolution portion of the bill. The agency does not have the resources needed to hire and train more staff for this purpose.

NOTES:

Fiscal note. The Legislative Budget Board's fiscal note estimates that CSHB 1818 would have a positive impact of about \$8.6 million to general revenue related funds through fiscal 2018-19. The bill also is estimated to create additional revenue to a general revenue dedicated account and increased costs from that account to offset the general revenue savings.

Comparison of substitute. CSHB 1818 differs from the bill as filed by:

- not including a requirement that the Railroad Commission implement a policy to encourage the use of negotiated rulemaking procedures under Government Code, ch. 2008;
- not including a requirement that the annual plan also contain information about the amount of time field instructors spent overseeing high-risk activities compared to other activities; and
- including a section allowing the bill to prevail over other nonsubstantive additions and corrections to enacted codes made by the 85th Legislature during its regular session.

Companion bill. A companion bill, SB 300 by V. Taylor, was referred to the Senate Committee on Natural Resources and Economic Development on February 27.

SUBJECT: Issuing specialty license plates to surviving spouses of certain veterans

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson
0 nays

WITNESSES: For — Donald Hallager; (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations)

Against — None

On — (*Registered, but did not testify*: Jeremiah Kuntz, Texas Department of Motor Vehicles)

BACKGROUND: Transportation Code, sec. 504.302 allows the surviving spouse of a military veteran who was eligible and registered for a specialty license plate to continue to register one vehicle under the applicable section as long as the spouse remains unmarried.

Sec. 504.3015 requires that the registration fee be waived for one set of license plates issued to a military veteran eligible for a Distinguished Flying Cross medal specialty plate, a Defense Superior Service Medal specialty plate, or most specialty plates for extraordinary service.

DIGEST: HB 377 would allow the surviving spouse of a military veteran who would be eligible for certain specialty license plates to register one vehicle for the applicable specialty plate as long as the spouse remains unmarried. The bill would apply only to the surviving spouse of a military veteran who was eligible for:

- a Distinguished Flying Cross medal specialty plate;
- a World War II Veteran specialty plate;
- certain specialty plates for extraordinary military service;
- a Legion of Merit medal specialty plate; or
- a Defense Superior Service Medal specialty plate.

To apply for a plate, the surviving spouse would have to submit proof of the deceased spouse's eligibility for the specialty license plate.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 377 would honor the sacrifices veterans and their families have made by closing a gap in statute that prevents surviving spouses of certain decorated veterans from applying for a specialty license plate after the death of a spouse. Currently, a surviving spouse may continue to register only a license plate for which the veteran had registered before death. World War II veterans and those who earned a Distinguished Flying Cross medal, a Legion of Merit medal, recognition for extraordinary military service, or a Defense Superior Service Medal made sacrifices that were shared by their families. By allowing a surviving spouse to apply for a specialty plate for which the deceased veteran would be eligible, the bill would give recognition to families who have collectively earned it.

Texas attracts many out-of-state military families, including surviving spouses. Closing the gap in current law would support these families and give all surviving spouses of some of the most decorated veterans equal opportunity to honor their loved ones.

Access to a specialty plate also could alleviate a financial burden for certain surviving spouses. The surviving spouse of a military veteran eligible for a Distinguished Flying Cross medal specialty plate, a Defense Superior Service Medal specialty plate, or most specialty plates for extraordinary service would be exempt from the applicable registration fees.

**OPPONENTS
SAY:**

No apparent opposition.

SUBJECT: Creating open burn pit registry for military service members and veterans

COMMITTEE: Public Health — favorable, without amendment

VOTE: 11 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Collier, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

WITNESSES: For — Rosie Lopez-Torres and Diane Slape, Burn Pits 360; Le Roy Torres

Against — None

On — Janna Zumbrun, Texas Department of State Health Services; Jose Silva, Texas Veterans Commission

BACKGROUND: The U.S. Department of Veterans Affairs launched the Airborne Hazards and Open Burn Pit Registry in June 2014, after the Open Burn Pit Registry Act was signed into law in January 2013.

DIGEST: HB 283 would require the Department of State Health Services (DSHS) to create an open burn pit registry for outreach and education for military service members and veterans who were exposed to smoke from solid waste disposal sites and other airborne hazards during certain military operations.

Service members who were in the following military operations could participate in the registry:

- Southwest Asia operations on or after August 2, 1990;
- Operation Desert Shield or Desert Storm;
- Djibouti, Africa, on or after September 11, 2001;
- Operation Enduring Freedom, Iraqi Freedom, or New Dawn; or
- any other conflict or operation identified by the U.S. Department of Veterans Affairs (VA).

The bill would allow service members, veterans, or their relatives to register a case of exposure to open burn pit smoke or other airborne hazards with DSHS for inclusion in the registry.

For each registrant, DSHS would have to include the service member or veteran's name, contact information, location and dates of service, medical condition or death potentially related to the exposure of open burn pit smoke or other airborne hazards, and other information DSHS or the VA deemed necessary. DSHS would be required to share this information with the VA Airborne Hazards and Open Burn Pit Registry. The state's open burn pit registry would have to include an electronic link to the federal registry.

Information received by DSHS for the open burn pit registry would be confidential and exempt from the disclosure requirements under the Public Information Act.

HB 283 would require DSHS, with assistance from the Texas Veterans Commission, to develop and publish the following information on the department's website:

- how to register and use the state and federal open burn pit registries;
- updated scientific developments on the health effects of exposure to open burn pit smoke and other airborne hazards;
- available treatment offered by the VA;
- the process for applying to the VA for service-related disability compensation; and
- the process to appeal a service-related disability rating decision made by the VA.

DSHS would have to report on the effectiveness of collecting and maintaining information on the health effects of exposure to open burn pit smoke and other airborne hazards and recommend improvements for gathering such information. The initial report would be due to the applicable House and Senate standing committees by December 1, 2018, and would have to be completed by December 1 every even-numbered

year thereafter.

By March 1, 2018, the Health and Human Services Commission executive commissioner would have to adopt rules to administer the bill's provisions and, as necessary, enter into a memorandum of understanding with the VA.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

By establishing a Texas open burn pit registry, HB 283 would increase awareness among the state's veterans of the long-term health effects of exposure to toxic fumes from open burn pit sites. The bill would improve coordination and communication between state and federal governmental agencies and allow state agencies to distribute educational information to military members more effectively.

Although a federal open burn pit registry exists, there are key differences between the federal registry and the state registry. First, the federal government prohibits the relative of a deceased soldier to enter the deceased soldier's information into the registry. This hinders efforts to track the mortality rate of military members who have died from exposure to toxic fumes. Second, if a military member's medical condition has worsened, it may not be updated in the federal registry. A state registry also would be better tailored to the needs of Texas veterans.

Only a small portion of Texas veterans who may have been exposed to open burn pit fumes during their service have participated in the federal registry. A state registry is essential for ensuring that Texas veterans receive accurate and timely data for medical issues arising from open burn pit exposure.

**OPPONENTS
SAY:**

HB 283 would duplicate a function that already exists at the federal level. Texas should not use taxpayer dollars to fund a state open burn pit registry when the federal government operates a national one.

NOTES:

According to the Legislative Budget Board, HB 283 would have a negative impact of about \$2.7 million to general revenue related funds during fiscal 2018-19. It is assumed that DSHS would hire four new full-

time employees and use existing staff to create and maintain the open burn pit registry.

A companion bill, SB 158 by Hinojosa, was referred to the Senate Committee on Veteran Affairs and Border Security on January 25.

SUBJECT: Naming part of U.S. Highway 287 as Charles H. Roan Memorial Highway

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson
0 nays

WITNESSES: None

BACKGROUND: Transportation Code, sec. 225.001(c) allows part of the highway system, including a bridge or street, to be designated by the name of a deceased person who was significant in the state's history or in the lives of Texans.

Sec. 225.021(c) prohibits the Texas Department of Transportation from designing, constructing, or erecting a marker to designate a state highway unless a grant or donation of funds is made to the department to cover the costs.

DIGEST: HB 1317 would amend Transportation Code, ch. 225 to name the portion of U.S. Highway 287 in Claude, Texas, as the Charles H. Roan Memorial Highway.

Upon a donation of funds for the designation, the Texas Department of Transportation would design and construct markers indicating the designation and place one at each end and at appropriate intermediate sites along the highway.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 1317 would allow the city of Claude to honor Charles H. Roan, one of the city's residents who was killed in action during World War II saving the lives of his fellow Marines. During combat in the Pacific theater, Roan flung himself on an enemy grenade in order to absorb the explosion, saving four men. For this act, he was posthumously awarded the Congressional Medal of Honor by President Harry S. Truman in 1945. Renaming a portion of U.S. Highway 287 as the Claude H. Roan

Memorial Highway further would honor the legacy of a man who made the ultimate sacrifice for our country.

OPPONENTS
SAY:

No apparent opposition.